

OLC 74-2603

CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

Executive Registry

174-7022

21 DEC 1974

Honorable Roy L. Ash, Director
Office of Management and Budget
Washington, D. C. 20503

Dear Mr. Ash:

This is in response to your request for this Agency's views and recommendations on enrolled bill S. 3418, the "Privacy Act of 1974."

Congress recognized that the activities of the Agency require special consideration and in section 552a. (j)(1) of the bill exempted Agency records from most of the bill's operative provisions. The Agency is subject to subsections (b) and (i), and to certain provisions in subsections (c) and (e). These provisions require the proper protection, handling, and control of personal information, and publication in the Federal Register of a description of personal records systems.

By providing our exemption, the Congress assured the protection of sensitive intelligence information. The broad powers granted the Privacy Protection Study Commission are a matter of concern to me; however, I am sure that the Commission will take due regard for the special status of the Agency records pertaining to individuals, and of my statutory responsibility to protect intelligence sources and methods from unauthorized disclosure.

In principle, I endorse the objectives of S. 3418 to establish a comprehensive program for the protection of individual privacy. I appreciate the fact that the subject is highly complex, and recognize that this bill was the best compromise attainable. I therefore have no objection to approval of S. 3418 by the President.

Sincerely,

(EXECUTIVE REGISTRY FILE

/s/ W. E. Colby

W. E. Colby
Director

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(20 Dec 74)

ANALYSIS OF
SECTIONS IN S. 3418
WHICH APPLY TO CIA

Subsection (b) establishes procedures for the disclosure of personal information by an agency without the written consent of the individual involved. This includes routine dissemination of information among departments and agencies, Archives, the Congress, law enforcement purposes, etc.

Subsection (c) establishes procedures for the accounting of any disclosures of personal information made by a department or agency. We are subject to:

(c)(1)

Except for disclosures of personal information made internally by an agency or pursuant to the Freedom of Information Act, an agency must establish procedures furnishing the date and purpose of the disclosure of personal information to another agency.

NOTE: Our established format which records the dissemination of information to other agencies is sufficient.

(c)(2)

The accounting in (c)(1) above must be retained at least five years.

Subsection (e)(4)(A) through (F) requires publication in the Federal Register annually, a notice of the existence and character of the systems of records maintained by the Agency, including the categories of individuals involved; the routine use of the information; policies regarding storage; and the name of the official responsible for the system.

Subsection (e)(6) Prior to disseminating any information to any person or other agency, an agency must make a reasonable effort to assure the accuracy and completeness of the information.

Subsection (e)(7) precludes the maintenance of any records which describe how individuals exercise their first amendment rights unless authorized by statute. Sponsored by Senator Ervin as result of his hearings on Army's spying upon domestic political groups.

Subsection (e)(9) Rules of conduct for persons involved in the design, development, operation, and maintenance of record systems must be developed.

Subsection (e)(10) Agencies are to establish rules of conduct for operating systems pursuant to new law.

Subsection (e)(11) Agencies are to establish appropriate safeguards to protect information.

Subsection (i) provides criminal penalties for any violation of the Act by a Government official or employee.

Section 5 establishes a two-year "Privacy Protection Study Commission" composed of seven members--three appointed by President; two by President of Senate; and two by Speaker; to be chosen from among members of public at large, experts in civil rights, law, social sciences, computer technology, etc.

The Commission is to study data banks and data processing programs and information systems of Government and make recommendations to the President and Congress. It is also to determine what laws or other authority govern these systems and the extent that they are consistent with right of privacy and due process of law. The Commission is to make a thorough study of the criteria of programs which govern the collection, dissemination and use of personal information.

The Commission may inspect such records as it deems necessary; may hold hearings and has subpoena powers with redress to the courts.

Section 6 Agencies must give prior notice to OMB and Congress if they intend to change any record systems which affect personal rights.

Section 7 OMB is to provide guidelines to departments and agencies.

Section 8 The effective date of the law is 270 days after enactment.

Section 9 authorizes appropriation of \$1,500,000 for fiscal years 1975 through 1977 with \$750,000 limitation for any one year.

Executive Registry

74-7677/1

OLC 74-2604

20 December 1974

MEMORANDUM FOR: Director of Central Intelligence

SUBJECT : S. 3418, "Privacy Act of 1974"

1. Attached, for your signature, is a proposed letter to OMB recommending that the President sign S. 3418, the "right of privacy bill." Also attached is an analysis of those sections of the bill which apply to CIA.

2. Basically, the bill grants an individual under certain conditions access to Government records concerning him for purposes of assuring accuracy and completeness. Also, agencies must establish procedures to assure the protection and control of such information. The information cannot be disseminated further except under certain conditions. The bill also establishes a two-year study commission which will review systems of personal records in Government and report its recommendations to the Congress.

3. CIA is exempt from those provisions requiring us to permit access to records, and from most of the other provisions of the bill. In exercising our exemption, we will have to comply with some of the requirements of rule-making in Government. This requires publishing our rules in the Federal Register and giving the public thirty days to submit comments in writing for Agency consideration before the rules become final.

4. We are required to establish procedures to assure the proper protection and control of personal information. Our present procedures should comply with little change. We also will have to publish in the Federal Register a general description of our system of records. Agency records (as are records of all agencies) have been made subject to inspection by the Privacy Protection Study Commission, a nonregulatory two-year study commission established by S. 3418, which must report to Congress.

(EXECUTIVE REGISTRY FILE OLC)

We were exempt from a similar commission with regulatory powers in an earlier version of the bill. This new commission was part of the compromise which Senator Ervin insisted upon. Agency concern about the broad powers of the Commission are expressed in the attached letter to OMB, but we should be able to cooperate.

5. All things considered, we can live with the bill. Representatives from DDI, DDA, DDO, and OGC were included in coordination of an Agency position.



George L. Cary
Legislative Counsel

Attachments: As stated

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